PRESERVED

App. F. IX-4

Previous References. (1942-43. Legis.)

File No. 54-42

Serial Nos. 1

Later References.

110

GENERAL AND REVENUE SECRETARIAT

Serial Nos. one

Part B for March 1943

SUBJECT

Collective Fines

Extending the period of the Emergency Acts, XXXIX of 1942 (The collective fines (Emergency Continuance) Act, 1943, XIV of 1943

To The Compiler Mysore Gazette

No RL 871 dated 8th March 1943.

Orders the publication of the Collective Fines (Emergency ~~Act~~ continuance) Act, 1943

1.4.43.

Extending the period of the Emergency Acts

General and Revenue Secretariat
R. A. & L. C.

File No. of 194 [App. F. III–2

Serial No.

1) The Collective Fines Emergency Act received the assent of His Highness on the 8th Sept. 42 and was published on 1.10.42.

2) The City Municipalities amendment Emergency Act received the assent of His Highness on 22.9.42 and was published on 26.9.42.

3) Reference is invited to Section 31 (2) of the Government of Mysore Act, 1940. Emergency Acts are given a life of 6 months thereunder. On one view this period has to be calculated from the date of assent. The language of the section appears to support this view. On the other hand certain Emergency Acts are stated to come into force on a later date to be notified by Govt. It is not clear whether in such cases the 6 months has to be computed from the date when the Act is notified to come into force.

4) However in the present case the Acts do not depend on the issue of any such notification they are stated to "come into force at once". The question arises whether in such cases the Act comes into force from the date of assent or from the date of Publication in the Gazette. The better view seems to be that it is from the latter date since the Public who are affected by legislation must have notice of its provisions before being saddled with the responsibility of keeping to the law. It is perhaps

NOTE—Contn. Sheet

only when no provision appears in an Act of its Commencement that the General Clauses Act will apply and the Act is deemed to come into force from the date of assent.

7. In the present case on civil view the Emergency Acts will expire in March 43

6) In regard to the Municipalities Act other laws have been passed at Flag C that its life may be extended by another 6 months and action taken in the meanwhile to place a proviso to it (S 13 A) permanently on the Statute Book. If approved action will be taken accordingly.

7) In regard to Collection Acts Similar action will, if approved, be taken and its life extended by another 6 months and a Bill placed at the next session of the Ass also.

Sgd
11.2.43

Secy
Ass-Le)

8) Please put up authorities, if any, in support of the view expressed at 'A'

Sgd
11.2.43

9) Under Section 5 of the General Clauses Act, where any Act is not expressed to come into operation on a particular day, then it shall come into force on the day on which it receives the assent of His Highness the Maharaja.

10) If Acts which are expressly stated "to come into force at once" are also construed as coming under Section 5 of the General Clauses Act, then the result would be that the Clause that "it shall come into force at once" has to be treated as a nullity or as being superfluous. A number of decisions have laid down that a Statute is never supposed to use words without a meaning, unless such a construction would lead to absurdity. It is submitted that in cases where such a clause appears, effect could be given to it by considering the Act as coming into force from the date of publication. Where the Act has to come into force from the date of assent, no provision whatever need be made as the General Clauses Act will apply. This view gains support from the fact that in British India almost all penal statutes which are not expressed to come into force in the future by the issue of a notification ~~was~~ are stated "to come into force at once". This is perhaps to avoid retrospective operation being given to such Statutes to the extent that the date of assent is anterior to the date of publication and the difference between ~~the~~ two dates ~~would be~~ is covered by the

NOTE—Contn. Sheet

434/AL

File No. of 194 .

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R. A. & L. C.

Serial No.

provision of the General Clauses Act which says that the Act has to come into force from the date of assent. In order to avoid such retrospective operation of penal Statutes, they are stated to come into force at once meaning thereby that they shall come into force only from the date of publication in the Gazette.

Secy (AT-Le) 15.2.63

1) A general question is raised whether an enactment comes into force from the day it receives the assent of His Highness the Maharaja or from the day on which it is published in the Official Gazette. I think, that so far as the present file is concerned, the question raised is purely one of academic interest and I therefore feel that a consideration of the question may be deferred till a suitable occasion arises.

2) The present file relates to the Emergency Acts. The only question that arises is whether the six months time provided for in Section 31(2) is to be calculated from the date of the assent of His Highness the Maharaja or from the date of their publication in the Gazette. So far as [illegible]

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Serial No.

is concerned the question does not present any difficulty as the wordings of the Section are very clear viz. that "such ordinance shall have the force of law on receiving the assent of His Highness the Maharaja for such period not exceeding six months as may be specified therein". As no period has been mentioned in the enactments, they must be deemed to be in force for a period of six months, and consequently the Mysore City Municipalities (Amendment) Emergency Act has life till 22nd March 1943, and the Collective Fines (Emergency) Act has life till 8th March 1943.

(3) As the need for the emergent legislation still exists, the life of the two Acts may be extended for a further period of six months under Sect. 31 (2) (a).

(4) It is also for others whether action has also been taken to place these measures permanently on the statute book.

BKR
17.2.43

Law Secy.

15) There can be no doubt that the Emergency Measures came into force on the days on which

SECY. LAW DEPT. 9881 GOVT OF MYSORE

NOTE—Contn. Sheet

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General and Revenue Secretariat
R. A. & L. C.

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they received the assent of H.H., having regard to the wording of §31(2) of the Govt of Mysore Act & §5 of the General Clauses Act-

(16) Both the measures may be extended for a further period of six months under §31(2) of the Govt of Mysore Act

(17) The City Municipalities (Amendment) Act has to be placed permanently on the Statute after making suitable alterations that the provisions of Cl 3 relating to the reduction of quorum for meetings would apply only when situations arises making Cl 2 applicable

27. [illegible] 13
6634

Cus
17-2-43.

Minister Law.

Minister Edn.

Dewan (15) JPM

BKR
18-2-43

26.2.43

(18) [illegible]

(19) [illegible]
1/3/43

26. 2. 43.

Cus
1-3-43

BKR
1-3-43

OFFICE OF THE MINISTER FOR EDUCATION
Date 22/2/43
No. 4294

OFFICE OF THE MINISTER FOR L. S. G. & P. H.
Date 26.2.43.
No. 6974

Extending 2 Emergency Acts: 1. Collective Fines Immediate
2. Municipalities

General and Revenue Secretariat R. A. & L. C. | File No. 434 of 194 | [App. F. III–2

Serial No.

20) This is a Council matter

Secy 1.3.43
RA. Dept)

21) May be disposed of by circulation

BAR 1.3.43
Law Secy)

Cir 1-3-43

Dewan

22) NM 2/3/WD
Cir 2-3-43 BSKR 2.3.43

Chief Secy
27.C.

Submitted.

23)
Finance & Revenue Minister) JVH 2/3 12.3.43

C 777.

MINISTER
1943
7558

24) A S.F.N. is put up for approval
Sec 6.3.43
Law Secy)
Submitted
Cir 6.3.43

After issue of the Act re Co-operative Fines, the file will be worked up re the Municipalities Act.
Sec

25) Minister Law & Fin[illegible]

26) MM 6.3.

NOTE—Contn. Sheet

27) S.N. Submitted
Dewan
Cir 6.3.43

Final Note by the Minister for Education.

Subject.— Promulgation of the Collection Fines (Emergency) Continuance Act.

On the 8th of September 1942, the gracious assent of His Highness was accorded to the promulgation of the Collective Fines Act as an Emergency Act. The emergency which necessitated the promulgation of that measure has not completely ceased. But the Emergency Act has life only for six months which period will expire by the 8th of March 1943. In order to provide for the continuance of the measure till such time as it will be possible for a Bill to be brought forward in the usual course before the Legislature, it is necessary to extend the life of the Emergency Act for another six months. Opportunity is proposed to be taken to include a provision for saving acts done in good faith. The Dewan and the other Ministers are agreeable to these proposals.

I solicit the gracious assent of His Highness to promulg a measure to extend the Emergency Act for a further period of s months.

6th March 1943.

MINISTER FOR EDUCATION.

Submitted to His Highness.

30 I submit herewith for His Highness's gracious approval a Final Note by the Minister for Education on the subject of extending the life of the Collective Fines (Emergency) Act by six months from 8th March 1943.

N Raghavendra Rao

DEWAN.

Bangalore,
6th March 1943.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Extension of the life of the Collective Fines (Emergency) Act by six months from 8th March 1943.

Order.

31

8/3/'43

32 Chief Secy
9/3
10/3/43

General and Revenue

Secretariat.

e777

SUBJECT :—

Extension of the life of the Collective Fines (Emergency) Act by six months from 8th March 1943.

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules of the Mysore Government Business Rules.) (*)

13 [signature]

Chief Secretary to Government. 13

Through the Secretary to Government,

Law.....Department.

Cus 10-3-43

34 Take further action for the Municipalities Bill & Resolution?

Cus 11-3-43

8053 22-3-43

Minister for Finance and Revenue. [signature] 23-3

~~Minister for~~ Law.

4830 10.3

BKR 11.3.43

Cus 15-3-43

Minister for Education. [signature] 17.3.43

7658 17/3

Minister for Local Self-Govt. and Public Health. [signature]

Law Secy with compliments 17.3.43

[signature] 23/3

NOTE.—Contn. sheet

WD 0718—GPB—1,000—11-9-42

MW DV.

Cus 23-3-43

BKR 23.3.43

Regd. No. M.—1175.

The Mysore Gazette

(EXTRAORDINARY)

PUBLISHED BY AUTHORITY.

BANGALORE, MONDAY, MARCH 8, 1943.

NOTIFICATION.

No. Rl. 871—*Legis.* 56-42-1, *dated Bangalore, the 8th March* 1943.

Ordered that the accompanying Collective Fines (Emergency Continuance) Act, 1943, which received the assent of His Highness the Maharaja, on the 8th day of March 1943, be published as Act No. XV of 1943, in the *Mysore Gazette*, for general information.

C. NARAYANASWAMY NAIDU,
Secretary to Government,
Law Department.

ACT No. XV OF 1943.

The Collective Fines (Emergency Continuance) Act, 1943.

(*Received the assent of His Highness the Maharaja on the 8th day of March 1943.*)

Whereas the Collective Fines (Emergency) Act, 1942, (Act. No. XXXIX of 1942) received the assent of His Highness the Maharaja on the 8th day of September 1942 and was published in the *Mysore Gazette* on the 1st day of October 1942;

And whereas the Government of His Highness the Maharaja is satisfied that circumstances exist which render it necessary to take immediate action to extend the said Act for a further period of six months;

Now therefore in exercise of the powers conferred by clause (a) of Sub-Section (2) of Section 31 of the Government of Mysore Act, 1940 (Act No. XVIII of 1940);

It is hereby enacted as follows :—

1. This Act may be called the Collective Fines (Emergency Continuance) Act, 1943.

2. The Collective Fines (Emergency) Act, 1942 (Act No. XXXIX of 1942) is hereby extended for a further period of six months.

Printed by the Superintendent at the Government Press, Bangalore.